

AMENDED IN ASSEMBLY JUNE 23, 2010  
AMENDED IN ASSEMBLY JUNE 7, 2010  
AMENDED IN ASSEMBLY FEBRUARY 23, 2010  
AMENDED IN ASSEMBLY JUNE 24, 2009  
AMENDED IN SENATE MAY 5, 2009  
AMENDED IN SENATE APRIL 13, 2009

**SENATE BILL**

**No. 282**

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**Introduced by Senator Wright**

February 24, 2009

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An act to amend ~~Sections 12061 and 12077 of~~ *Section 12077 of, and to add Section 12062 to*, the Penal Code, relating to deadly weapons transaction records.

LEGISLATIVE COUNSEL'S DIGEST

SB 282, as amended, Wright. Deadly weapons transaction records: firearms and ammunition.

Existing law provides that commencing February 1, 2011, a vendor shall not sell or otherwise transfer ownership of any handgun ammunition without, at the time of delivery, legibly recording specified information regarding the purchaser or transferee, and maintaining the record for a period of not less than 5 years, as specified. Existing law provides that violation of these provisions is a misdemeanor. Existing law also provides that the records shall be subject to inspection by any peace officer and certain others, as specified, for purposes of an investigation where access to those records is or may be relevant to that investigation, when seeking information about persons prohibited from

owning a firearm or ammunition, or when engaged in ensuring compliance with laws pertaining to firearms or ammunition, as specified.

This bill would provide that commencing February 1, 2011, except for investigatory and enforcement purposes described above, no ammunition vendor shall provide the required information to any 3rd party, or use the information for any purpose other than what is required or authorized by statute or regulation, without the written consent of the purchaser or transferee. The bill would also provide that any required ammunition records that are no longer required to be maintained shall be destroyed in a manner that protects the privacy of the purchaser or transferee who is the subject of the record. The bill would provide that violation of these provisions is a misdemeanor.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

Existing law requires certain information to be collected by firearms dealers in connection with the transfer of firearms and submitted to the Department of Justice, as specified.

This bill would provide that no firearms dealer shall provide the information required by those provisions to any 3rd party, or use the information for any purpose other than what is required or authorized by statute or regulation, without the written consent of the purchaser or transferee. *The bill would also provide that any of these records that are no longer required to be maintained shall be destroyed in a manner that protects the privacy of the purchaser or transferee who is the subject of the record.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 12061 of the Penal Code is amended to~~
- 2     ~~read:~~
- 3     ~~12061. (a) A vendor shall comply with all of the following~~
- 4     ~~conditions, requirements, and prohibitions:~~

1     ~~(1) A vendor shall not permit any employee who the vendor~~  
2     ~~knows or reasonably should know is a person described in Section~~  
3     ~~12021 or 12021.1 of this code or Section 8100 or 8103 of the~~  
4     ~~Welfare and Institutions Code to handle, sell, or deliver handgun~~  
5     ~~ammunition in the course and scope of his or her employment.~~

6     ~~(2) A vendor shall not sell or otherwise transfer ownership of,~~  
7     ~~offer for sale or otherwise offer to transfer ownership of, or display~~  
8     ~~for sale or display for transfer of ownership of any handgun~~  
9     ~~ammunition in a manner that allows that ammunition to be~~  
10    ~~accessible to a purchaser or transferee without the assistance of~~  
11    ~~the vendor or employee thereof.~~

12    ~~(3) Commencing February 1, 2011, a vendor shall not sell or~~  
13    ~~otherwise transfer ownership of any handgun ammunition without,~~  
14    ~~at the time of delivery, legibly recording the following information:~~

15    ~~(A) The date of the sale or other transaction.~~

16    ~~(B) The purchaser's or transferee's driver's license or other~~  
17    ~~identification number and the state in which it was issued.~~

18    ~~(C) The brand, type, and amount of ammunition sold or~~  
19    ~~otherwise transferred.~~

20    ~~(D) The purchaser's or transferee's signature.~~

21    ~~(E) The name of the salesperson who processed the sale or other~~  
22    ~~transaction.~~

23    ~~(F) The right thumbprint of the purchaser or transferee on the~~  
24    ~~above form.~~

25    ~~(G) The purchaser's or transferee's full residential address and~~  
26    ~~telephone number.~~

27    ~~(H) The purchaser's or transferee's date of birth.~~

28    ~~(4) Commencing February 1, 2011, the records required by this~~  
29    ~~section shall be maintained on the premises of the vendor for a~~  
30    ~~period of not less than five years from the date of the recorded~~  
31    ~~transfer. Commencing February 1, 2011, except for the purposes~~  
32    ~~set forth in paragraph (5), no vendor shall provide the information~~  
33    ~~specified in paragraph (3) to any third party, or use the information~~  
34    ~~for any purpose other than what is required or authorized by statute~~  
35    ~~or regulation, without the written consent of the purchaser or~~  
36    ~~transferee. Any records required by this section that are no longer~~  
37    ~~required to be maintained shall be destroyed in a manner that~~  
38    ~~protects the privacy of the purchaser or transferee who is the subject~~  
39    ~~of the record.~~

~~(5) Commencing February 1, 2011, the records referred to in paragraph (3) shall be subject to inspection at any time during normal business hours by any peace officer employed by a sheriff, city police department, or district attorney as provided in subdivision (a) of Section 830.1, or employed by the department as provided in subdivision (b) of Section 830.1, provided the officer is conducting an investigation where access to those records is or may be relevant to that investigation, is seeking information about persons prohibited from owning a firearm or ammunition, or is engaged in ensuring compliance with the Dangerous Weapons Control Law (Chapter 1 (commencing with Section 12000) of Title 2 of Part 4), or any other laws pertaining to firearms or ammunition. The records shall also be subject to inspection at any time during normal business hours by any other employee of the department, provided that employee is conducting an investigation where access to those records is or may be relevant to that investigation, is seeking information about persons prohibited from owning a firearm or ammunition, or is engaged in ensuring compliance with the Dangerous Weapons Control Law (Chapter 1 (commencing with Section 12000) of Title 2 of Part 4), or any other laws pertaining to firearms or ammunition.~~

~~(6) Commencing February 1, 2011, the vendor shall not knowingly make a false entry in, fail to make a required entry in, fail to obtain the required thumbprint, or otherwise fail to maintain in the required manner records prepared in accordance with paragraph (2). If the right thumbprint is not available, then the vendor shall have the purchaser or transferee use his or her left thumb, or any available finger, and shall so indicate on the form. If the purchaser or transferee is physically unable to provide a thumbprint or fingerprint, the vendor shall so indicate on the form.~~

~~(7) Commencing February 1, 2011, no vendor shall refuse to permit a person authorized under paragraph (5) to examine any record prepared in accordance with this section during any inspection conducted pursuant to this section, or refuse to permit the use of any record or information by those persons.~~

~~(b) Paragraph (3) of subdivision (a) shall not apply to or affect sales or other transfers of ownership of handgun ammunition by handgun ammunition vendors to any of the following, if properly identified:~~

~~(1) A person licensed pursuant to Section 12071.~~

1     ~~(2) A handgun ammunition vendor.~~

2     ~~(3) A person who is on the centralized list maintained by the~~  
3 ~~department pursuant to Section 12083.~~

4     ~~(4) A target facility which holds a business or regulatory license.~~

5     ~~(5) Gunsmiths.~~

6     ~~(6) Wholesalers.~~

7     ~~(7) Manufacturers or importers of firearms licensed pursuant~~  
8 ~~to Chapter 44 (commencing with Section 921) of Title 18 of the~~  
9 ~~United States Code, and the regulations issued pursuant thereto.~~

10    ~~(8) Sales or other transfers of ownership made to authorized~~  
11 ~~law enforcement representatives of cities, counties, cities and~~  
12 ~~counties, or state or federal governments for exclusive use by those~~  
13 ~~government agencies if, prior to the delivery, transfer, or sale of~~  
14 ~~handgun ammunition, written authorization from the head of the~~  
15 ~~agency authorizing the transaction is presented to the person from~~  
16 ~~whom the purchase, delivery, or transfer is being made. Proper~~  
17 ~~written authorization is defined as verifiable written certification~~  
18 ~~from the head of the agency by which the purchaser, transferee,~~  
19 ~~or person otherwise acquiring ownership is employed, identifying~~  
20 ~~the employee as an individual authorized to conduct the transaction,~~  
21 ~~and authorizing the transaction for the exclusive use of the agency~~  
22 ~~by which he or she is employed.~~

23    ~~(e) (1) A violation of paragraph (3), (4), (6), or (7) of~~  
24 ~~subdivision (a) is a misdemeanor.~~

25    ~~(2) The provisions of this subdivision are cumulative, and shall~~  
26 ~~not be construed as restricting the application of any other law.~~  
27 ~~However, an act or omission punishable in different ways by~~  
28 ~~different provisions of law shall not be punished under more than~~  
29 ~~one provision.~~

30    ~~SECTION 1. Section 12062 is added to the Penal Code, to~~  
31 ~~read:~~

32    ~~12062. (a) Commencing February 1, 2011, except for the~~  
33 ~~purposes set forth in paragraph (5) of subdivision (a) of Section~~  
34 ~~12061, no vendor shall provide the information specified in~~  
35 ~~paragraph (3) of subdivision (a) of Section 12061 to any third~~  
36 ~~party, or use the information for any purpose other than what is~~  
37 ~~required or authorized by statute or regulation, without the written~~  
38 ~~consent of the purchaser or transferee of the handgun ammunition~~  
39 ~~who is the subject of the record.~~

1     (b) Any records generated pursuant to Section 12061 that are  
2     no longer required to be maintained shall be destroyed in a manner  
3     that protects the privacy of the purchaser or transferee who is the  
4     subject of the record.

5     (c) A violation of this section is a misdemeanor.

6     SEC. 2. Section 12077 of the Penal Code is amended to read:

7     12077. (a) The Department of Justice shall prescribe the form  
8     of the register and the record of electronic transfer pursuant to  
9     Section 12074.

10    (b) (1) For handguns, information contained in the register or  
11    record of electronic transfer shall be the date and time of sale,  
12    make of firearm, peace officer exemption status pursuant to  
13    subdivision (a) of Section 12078 and the agency name, dealer  
14    waiting period exemption pursuant to subdivision (n) of Section  
15    12078, dangerous weapons permitholder waiting period exemption  
16    pursuant to subdivision (r) of Section 12078, curio and relic waiting  
17    period exemption pursuant to subdivision (t) of Section 12078,  
18    California Firearms Dealer number issued pursuant to Section  
19    12071, for transactions occurring prior to January 1, 2003, the  
20    purchaser's basic firearms safety certificate number issued pursuant  
21    to Sections 12805 and 12809, for transactions occurring on or after  
22    January 1, 2003, the purchaser's handgun safety certificate number  
23    issued pursuant to Article 8 (commencing with Section 12800),  
24    manufacturer's name if stamped on the firearm, model name or  
25    number, if stamped on the firearm, if applicable, serial number,  
26    other number (if more than one serial number is stamped on the  
27    firearm), any identification number or mark assigned to the firearm  
28    pursuant to Section 12092, caliber, type of firearm, if the firearm  
29    is new or used, barrel length, color of the firearm, full name of  
30    purchaser, purchaser's complete date of birth, purchaser's local  
31    address, if current address is temporary, complete permanent  
32    address of purchaser, identification of purchaser, purchaser's place  
33    of birth (state or country), purchaser's complete telephone number,  
34    purchaser's occupation, purchaser's sex, purchaser's physical  
35    description, all legal names and aliases ever used by the purchaser,  
36    yes or no answer to questions that prohibit purchase including, but  
37    not limited to, conviction of a felony as described in Section 12021  
38    or an offense described in Section 12021.1, the purchaser's status  
39    as a person described in Section 8100 of the Welfare and  
40    Institutions Code, whether the purchaser is a person who has been

1 adjudicated by a court to be a danger to others or found not guilty  
2 by reason of insanity, whether the purchaser is a person who has  
3 been found incompetent to stand trial or placed under  
4 conservatorship by a court pursuant to Section 8103 of the Welfare  
5 and Institutions Code, signature of purchaser, signature of  
6 salesperson (as a witness to the purchaser's signature),  
7 salesperson's certificate of eligibility number if he or she has  
8 obtained a certificate of eligibility, name and complete address of  
9 the dealer or firm selling the firearm as shown on the dealer's  
10 license, the establishment number, if assigned, the dealer's  
11 complete business telephone number, any information required by  
12 Section 12082, any information required to determine whether or  
13 not paragraph (6) of subdivision (c) of Section 12072 applies, and  
14 a statement of the penalties for any person signing a fictitious name  
15 or address or for knowingly furnishing any incorrect information  
16 or for knowingly omitting any information required to be provided  
17 for the register.

18 (2) Effective January 1, 2003, the purchaser shall provide his  
19 or her right thumbprint on the register in a manner prescribed by  
20 the department. No exception to this requirement shall be permitted  
21 except by regulations adopted by the department.

22 (3) The firearms dealer shall record on the register or record of  
23 electronic transfer the date that the handgun is delivered.

24 (c) (1) For firearms other than handguns, information contained  
25 in the register or record of electronic transfer shall be the date and  
26 time of sale, peace officer exemption status pursuant to subdivision  
27 (a) of Section 12078 and the agency name, auction or event waiting  
28 period exemption pursuant to subdivision (g) of Section 12078,  
29 California Firearms Dealer number issued pursuant to Section  
30 12071, dangerous weapons permit holder waiting period exemption  
31 pursuant to subdivision (r) of Section 12078, curio and relic waiting  
32 period exemption pursuant to paragraph (1) of subdivision (t) of  
33 Section 12078, full name of purchaser, purchaser's complete date  
34 of birth, purchaser's local address, if current address is temporary,  
35 complete permanent address of purchaser, identification of  
36 purchaser, purchaser's place of birth (state or country), purchaser's  
37 complete telephone number, purchaser's occupation, purchaser's  
38 sex, purchaser's physical description, all legal names and aliases  
39 ever used by the purchaser, yes or no answer to questions that  
40 prohibit purchase, including, but not limited to, conviction of a

felony as described in Section 12021 or an offense described in Section 12021.1, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), salesperson's certificate of eligibility number if he or she has obtained a certificate of eligibility, name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, any information required by Section 12082, and a statement of the penalties for any person signing a fictitious name or address or for knowingly furnishing any incorrect information or for knowingly omitting any information required to be provided for the register.

(2) Effective January 1, 2003, the purchaser shall provide his or her right thumbprint on the register in a manner prescribed by the department. No exception to this requirement shall be permitted except by regulations adopted by the department.

(3) The firearms dealer shall record on the register or record of electronic transfer the date that the firearm is delivered.

(d) Where the register is used, the following shall apply:

(1) Dealers shall use ink to complete each document.

(2) The dealer or salesperson making a sale shall ensure that all information is provided legibly. The dealer and salespersons shall be informed that incomplete or illegible information will delay sales.

(3) Each dealer shall be provided instructions regarding the procedure for completion of the form and routing of the form. Dealers shall comply with these instructions which shall include the information set forth in this subdivision.

(4) One firearm transaction shall be reported on each record of sale document. For purposes of this subdivision, a "transaction" means a single sale, loan, or transfer of any number of firearms that are not handguns.

(e) The dealer or salesperson making a sale shall ensure that all required information has been obtained from the purchaser. The



1 dealer and all salespersons shall be informed that incomplete  
2 information will delay sales.

3 (f) Effective January 1, 2003, the purchaser's name, date of  
4 birth, and driver's license or identification number shall be obtained  
5 electronically from the magnetic strip on the purchaser's driver's  
6 license or identification and shall not be supplied by any other  
7 means except as authorized by the department. This requirement  
8 shall not apply in either of the following cases:

9 (1) The purchaser's identification consists of a military  
10 identification card.

11 (2) Due to technical limitations, the magnetic strip reader is  
12 unable to obtain the required information from the purchaser's  
13 identification. In those circumstances, the firearms dealer shall  
14 obtain a photocopy of the identification as proof of compliance.

15 (3) In the event that the dealer has reported to the department  
16 that the dealer's equipment has failed, information pursuant to this  
17 subdivision shall be obtained by an alternative method to be  
18 determined by the department.

19 (g) No dealer shall provide the information required by this  
20 section to any third party, or use the information for any purpose  
21 other than what is required or authorized by statute or regulation,  
22 without the written consent of the purchaser or transferee.

23 (h) *Any records generated pursuant to this section that are no*  
24 *longer required to be maintained shall be destroyed in a manner*  
25 *that protects the privacy of the purchaser or transferee who is the*  
26 *subject of the record.*

27 ~~(h)~~

28 (i) As used in this section, the following definitions shall control:

29 (1) "Purchaser" means the purchaser or transferee of a firearm  
30 or the person being loaned a firearm.

31 (2) "Purchase" means the purchase, loan, or transfer of a firearm.

32 (3) "Sale" means the sale, loan, or transfer of a firearm.

33 SEC. 3. No reimbursement is required by this act pursuant to  
34 Section 6 of Article XIII B of the California Constitution because  
35 the only costs that may be incurred by a local agency or school  
36 district will be incurred because this act creates a new crime or  
37 infraction, eliminates a crime or infraction, or changes the penalty  
38 for a crime or infraction, within the meaning of Section 17556 of  
39 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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